



VIA EMAIL

January 15, 2016

Mr. Ryan Mallory-Jones  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Email: [Ryan.Mallory-Jones@waterboards.ca.gov](mailto:Ryan.Mallory-Jones@waterboards.ca.gov)

Subject: **LA County MS4 Permit – Response to Petition for Review of WMP Approvals**

Dear Mr. Mallory-Jones and Members of the Board:

The Los Cerritos Channel Watershed Management Program (WMP) was one of the nine WMPs conditionally approved by the Executive Officer of the Los Angeles Regional Water Quality Control Board. The Los Cerritos Channel Watershed Group (Watershed Group) voted to respond to the Petition brought by NRDC *et al.* The Watershed Group would like to take the opportunity to emphasize that the 2012 MS4 Permit, with its emphasis on watershed-based strategies and enhanced monitoring, represents a quantum leap in stormwater quality permitting and planning. In fact, it is truly a paradigm shift. Permittees are working together to address water quality on a watershed or subwatershed basis and committing to schedules for implementing structural and non-structural control measures while diligently pursuing a stable and sustainable funding mechanism. Further, the Watershed Group believes the Petition does not have merit since conditional approval of plans and programs is an established procedure used by the Water Boards.

The petitioners indicate that, collectively, they represent 28,600 members (perhaps overlapping) in Los Angeles County. The seven municipal members of the Watershed Group represent approximately 863,200 residents of Los Angeles County, including residents in other watersheds within their jurisdictions.

The Petitioners cite the 2012 MS4 Permit and argue that, unlike the 2001 Permit, it “incorporates several ‘safe harbors’ that create an alternative means to comply with the RWLs provisions in certain circumstances.” There are no “safe harbors” in the 2012 Permit. Rather, there is a process that gives Permittees time to design, finance, and construct structural control measures while pursuing non-structural measures such as source control. Permittees are expected to comply with all requirements and dates for their achievement in the approved WMPs to meet interim

milestones and must meet the final numeric water quality-based effluent limitations for the TMDLs incorporated into the Permit. This is a much more rigorous requirement than the iterative process included in the 2001 MS4 Permit. The commitments made in WMP implementation schedules have gotten the attention of elected officials at a level never before experienced in the region.

The Petitioners also assert that Permittees “can select their own control measures, best management practices, and compliance schedules to implement permit requirements, subject to minimum standards set forth in the permit.” The Watershed Group would like to point out that while Permittees can propose control measures, best management practices, and compliance schedules, these proposals are subject to approval by the Regional Water Board. Furthermore, Section 13360 of the Porter-Cologne Water Quality Control Act precludes the Water Board from specifying exactly which control measures and best management practices are used by Permittees.

The Petitioners challenge the State Water Board’s statement that the WMP alternative compliance approach “is a clearly defined, implementable, and enforceable alternative to the receiving water limitations provisions.” While the Watershed Group has concerns with some Permit language, we believe it is generally well defined and implementable while being clearly enforceable. WMP Sections VI. A.13.a through VI.A.13.h. specify a range of measures by which the Permit may be enforced. Furthermore, the Group was able to successfully develop a WMP and a Coordinated Integrated Monitoring Program (CIMP) that not only address all Permit requirements, but also provide a comprehensive and quantitative roadmap to ultimately achieve water quality standards. Contrary to the Petitioners’ assertion that the revised WMPs were deficient, the fact that the Los Angeles Regional Water Board’s comments were minor, mainly seeking supplemental information and clarification, is a testament to the Regional Water Board staff’s recognition that the revised WMPs were compliant and substantially complete.

Developing the Los Cerritos Channel Watershed Management Program was challenging. Watershed Groups that selected the WMP option had one year to develop the WMPs, after organizing and submitting a Notice of Intent to the Los Angeles Regional Water Board that they were going to develop a WMP, while other watersheds had an additional year to develop Enhanced Watershed Management Programs (EWMPs). The Watershed Group chose a WMP over an EWMP because the Watershed is relatively close to the coast, is essentially built-out, has no existing regional stormwater capture/treatment facilities, and has limited opportunities for construction of multi-benefit watershed capture/treatment facilities. After reviewing the draft Los Cerritos Channel WMP, the Los Angeles Regional Water Board noted that, “...for the most part the draft WMP includes the elements and analysis required.” However, the Board did deem some revisions necessary. Los Angeles Regional Water Board staff made 21 separate comments on the draft WMP, and the Watershed Group modified the WMP in response to the comments and resubmitted it in January 2015. To help staff review the revised WMP, the Group provided Regional Water Board staff a matrix detailing the Group’s responses to staff comments and explaining actions taken in response to the comments.

On April 28, 2015, the Los Angeles Regional Water Board approved the WMP, with four conditions. The conditions were all either language clarifications or requests for supplemental information. One asked for a revision to a discussion of ammonia to indicate that the Watershed Group would monitor ammonia and zinc in the CIMP and re-evaluate ammonia as part of the adaptive management process. Each of these actions was already planned, but staff wanted the cross-references in the WMP. A second condition was a requested revision to a Table of Phase I milestones and associated text to remove footnotes related to adoption of trash amendments by the State Water Board, revision of the Tables to specify the last day of the quarter instead of the year and quarter, and substitution of the language, “as needed to achieve volume reduction milestones” for “subject to the availability of funding.” A third requested revision included similar language changes to a second table. Lastly, Los Angeles Regional Water Board staff requested that the City of Long Beach Statement of Legal Authority, which became available after the revised WMP was submitted in January, be included in an appendix. This last request had been previously discussed with staff, which indicated the Regional Water Board would request the document in the future. The three required revisions were all minor clarifications, and the City of Long Beach Statement of Legal Authority was received by the Regional Water Board on February 28, 2015, in connection with Long Beach’s separate MS4 Permit. The revised WMP could have been approved without the clarifications requested by staff. However, the Executive Officer chose to conditionally approve the WMP in order to clarify a few items and modify some language in two tables.

On page 8 of the Memorandum of Points and Authorities, the Petitioners note that, “once a WMP is approved, Permittees must immediately begin implementing measures and actions proposed in the WMP.” The Watershed Group has always planned on such implementation. The Group members participated in two multi-watershed workshops with the Lower Los Angeles River Watershed Committee and the Lower San Gabriel Watershed Committee before the draft WMP was submitted to the Los Angeles Regional Water Board in June 2014. The first was a six-hour workshop focusing on the upcoming new minimum control measure (MCM) requirements. The second was another six-hour workshop focusing on WMP content and the commitments that would result from WMP approval. This workshop also included an emphasis on the Reasonable Assurance Analysis and the volumes of water capture that would be necessary if the watersheds were dependent primarily on water capture.

On July 15, 2015, a third multi-watershed workshop was held to emphasize key elements of municipal WMP implementation. This three-hour workshop was for planners, plan checkers, inspectors, and field staff supervisors, in addition to stormwater program managers. It emphasized target watershed control measures, including the draft Vacant Parcel Erosion and Sediment Control Ordinance and Manual prepared by the City of Signal Hill for the Los Cerritos Channel and Lower Los Angeles River Watersheds and prioritized industrial/commercial inspections. It also included several components of the Construction Program and the Planning and Land Development Program, as well as other new policies and written procedures, Record Keeping, and Annual Reporting.

The municipalities in the Los Cerritos Channel Watershed Group actually began implementation of the WMP when they began implementation of the Los Cerritos Channel Metals TMDL in 2009, before the 2012 Permit was adopted and before the TMDL was actually established, by forming a technical committee, developing cost share tables, looking for grant opportunities, and developing Memoranda of Understanding (MOUs) to fund implementation of the TMDL. In 2010, the MOUs were entered into for preparation of a TMDL Implementation Plan, a monitoring program, and special studies. Funding came from cities' General Funds. Also in 2010, cities in the Watershed supported adoption of SB 346 to reduce copper in brake pads by submitting support letters and helping to fund the activities of the California Stormwater Quality Association (CASQA) and Sustainable Conservation to negotiate and gain legislative support for the bill. Funds for these efforts also came from cities' General Funds. In 2010, the Group entered into a contract with a consulting firm to prepare a TMDL Implementation Plan. This effort was held in abeyance during development of the 2012 MS4 Permit and converted into a program to develop a WMP and a CIMP after the Permit was adopted. Funding for these planning programs came from payments by cities to the Gateway Watershed Management Authority (GWMA) per the 2010 MOUs and new MOUs signed in 2012.

Also in 2012, the Watershed committed \$50,000 as the local match for a \$338,000 Proposition 84 grant to fund a project entitled, "Los Cerritos Channel Watershed Segmentation and Low Impact Development (LID) Planning Project" to better understand dry-weather flows, pollutant sources, and pollutant loads to assist in targeting LID and water capture projects. The study was completed in December, 2015. The cities in the Watershed also funded a 2012 letter report entitled, "Estimate of Urban Runoff Copper Reduction in Los Angeles from Brake Pad Copper Reductions Mandated by SB 346." Funds to pay for this study came from cities' payments to GWMA per the 2010 MOUs.

The Watershed has now completed a WMP in which copper, lead, and zinc are specified as Category 1 (highest priority) pollutants. The WMP contains a multi-pronged strategy to achieve compliance with water quality standards for these metals. The associated CIMP includes a Watershed Segmentation component designed to find and address sources of the metals. In addition to source control, the strategy initially focuses on sediment control and runoff reduction. The cities within the Watershed have adopted LID Ordinances and Green Streets Policies and most have already upgraded street sweeping equipment to either vacuum or regenerative sweepers in order to better remove fine sediment particles to which metals adhere. The cities are also working with the Gateway Council of Governments on a water quality component for a Strategic Transportation Plan to help secure funding for arterial and intersection green streets projects. This effort is being funded by the cities and the Watershed.

The Watershed Group developed Action Plans for both 2015 and 2016 based on commitments in the Implementation Section of the WMP. In addition, two cities in the Watershed Group (Lakewood and Signal Hill) have each entered into Cooperative Implementation Agreements with the California Department of Transportation (Caltrans) to design and construct large water capture facilities with targeted capacities of eight acre-feet. These facilities are the first two water capture facilities specified in the Implementation Schedule Section of the WMP. A concept

plan has been completed for one of the projects, while a concept plan for the other project is scheduled for completion by June 30, 2016. Both are scheduled for construction by September 30, 2019. The Group now anticipates construction of both projects several months before the scheduled completion dates.

Another major project underway is the development of a model Vacant Lot Erosion and Sediment Control Ordinance by the City of Signal Hill. This Ordinance is currently proposed for adoption in March 2016 and implementation 180 days later. It is a model ordinance for consideration by the other cities in the Watershed. The intent is to reduce the discharge of fine sediments that transport metals and other pollutants to the receiving waters.

In addition, the Watershed is planning to move forward on concept designs for other sub-regional water capture facilities in order to seek grant funding for their construction, and one city was just notified that it is receiving grant funding for a major green street project.

In the Memorandum of Points and Authorities, the Petitioners assert that the most glaring deficiency in the WMPs is the “flawed Reasonable Assurance Analysis (RAA) in each.” The Watershed Group concedes that the RAAs are not perfect. They cannot be; they are modeling exercises that reflect current knowledge and best engineering judgment. However, the model used for the Lower Los Angeles River, the Los Cerritos Channel, and the Lower San Gabriel River was calibrated using the best available monitoring data, and it will be further refined through the adaptive management process as more data becomes available from the expanded monitoring programs. The Watershed Group’s major criticism of current models, including the one used for our RAA, the Watershed Management Modeling System (WMMS), is that they were not designed to adequately address source control. Currently, the only way to address true source control (pollution prevention) is through assumptions. The RAA tells members of the Watershed Group how much stormwater would have to be captured for designated subwatersheds to come into compliance with the requirements for limiting pollutants, which are the pollutants that professional judgment indicates will be the most difficult to address. For the Los Cerritos Channel Watershed and several other watersheds, these are zinc and bacteria (*E. coli*).

The RAA for the Lower Los Angeles River, Los Cerritos Channel, and Lower San Gabriel River divides the Los Cerritos Channel’s ten sub-basins, as defined by USEPA in the Los Cerritos Channel Metals TMDLs, into 44 subwatersheds and provides compliance target volumes and a pollutant reduction plan for each subwatershed. These plans allocate the total BMP volume to achieve compliance between existing distributed BMP volume, total estimated right-of-way BMP volume, estimated potential LID on public parcels volume, and remaining BMP volume (potentially regional BMPs). The initial stormwater capture projects described above will each address water capture volume for several subwatersheds. The RAA is a complicated, but important, tool that will assist the Watershed Group in focusing investments in both structural and non-structural measures in order to meet the schedule included in the WMP to improve water quality in the Watershed.

Response to Petition for Review of WMP Approvals  
January 15, 2016  
Page 6 of 6

In conclusion, the Watershed Group believes the WMP process is a sound and workable, although very expensive, process to achieve water quality standards more quickly than we thought possible. As noted above, we are already implementing our WMP.

Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Watson".

Richard A. Watson, Consultant  
On Behalf of Anthony C. Arevalo  
Chair, Los Cerritos Channel Watershed Group

Cc: List